



TO:

Mr. Jacques Barrot, Vice-President, Commissioner for Freedom, Security and Justice
European Commission
B-1049 Brussels
Belgium

CC:

Czech Presidency of the EU
Swedish Presidency of the EU
JHA Council Ministers
Mr Jonathan Faull, Director General – European Commission
LIBE Committee of the European Parliament

Brussels, 24 June 2009

Re: Online access to European DNA and fingerprint databases by third countries

Dear Sir,

Thank you for your reply of 5 September 2008 to our letter concerning the conclusion of bilateral agreements with third countries regulating online access to European DNA and fingerprint databases with a view to preventing and combating serious crime, in particular terrorism. These bilateral agreements seem to be inspired by the Prüm Treaty and the Council Decision on the stepping up of cross-border co-operation, with particular regard to the fight against terrorism and cross-border crime.

We note that you share our concerns regarding diverging approaches and the patchwork of data protection requirements such bilateral agreements may lead to. We also note that you agree that a coordinated approach of all Member States regarding this issue is necessary.

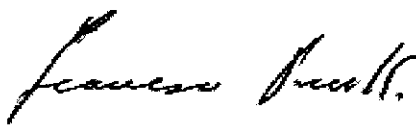
Since we received your reply, more and more Member States are being or have been confronted with requests from third countries to sign such bilateral agreements. In order to be able to respond to such requests from third countries in a uniform manner, coordinated action is necessary and urgent.

During the Spring Conference of European Data Protection Authorities in Edinburgh on 24 April 2009, European Data Protection Authorities adopted a resolution pointing to the large differences in the level of protection in bilateral and multilateral agreements between EU Member States and third countries in the area of police and judicial co-operation, resulting from the patchwork of applicable legal frameworks in this field. The European Data Protection Authorities call upon all EU Member States to ensure the applicable standard of data protection is respected when concluding such international agreements. The WPPJ therefore calls upon the European Commission, the Council and the EU Member States to develop instruments to ensure a harmonized approach in this field.

The WPPJ furthermore urges EU Member States, when faced with requests from third countries to sign such agreements, to - besides the need for a coordinated European approach - take into account the following:

- not to allow any online access to DNA and fingerprint databases, only permitting indirect access through a national contact point;
- to ensure clear and robust data protection safeguards in the agreements, such as purpose limitation, data quality, necessity test and proportionality, data security, protection of sensitive data, limitations on further use of data, independent supervision, and the rights of data subjects;
- to ensure sufficient information with regard to the relevant data protection conditions in the third country;
- to guarantee full parliamentary control and oversight of the agreement.

Yours Sincerely,



Francesco Pizzetti
Chairman of the Working Party on Police and Justice

The Working Party on Police and Justice was set up by the European data protection authorities to monitor developments in the area of police and judicial co-operation. Please address correspondence to the Chair, c/o Italian data protection authority, Piazza di Montecitorio, 121 - 00186 Rome, Italy.